

Water (Special Measures) Bill [HL]

RUNNING LIST OF ALL AMENDMENTS IN COMMITTEE OF THE WHOLE HOUSE

*Tabled up to and including
23 October 2024*

[Amendments marked ★ are new or have been altered]

Before Clause 1

BARONESS WILLIS OF SUMMERTOWN
BARONESS YOUNG OF OLD SCONE

Before Clause 1, insert the following new Clause –

“Purpose

- (1) The purpose of this Act is to put in place measures to address river pollution by water companies and water and sewerage companies.
- (2) The Secretary of State and, as the case may be, the Water Services Regulation Authority must have regard to the purpose set out in subsection (1) in implementing the provisions of this Act, and in doing so must also have regard to –
 - (a) the need to meet the biodiversity targets set under sections 1 (environmental targets) and 3 (environmental targets: species abundance) of the Environment Act 2021, and
 - (b) the current or predicted impacts of climate change identified in the most recent report under section 56 of the Climate Change Act 2008 (report on impact of climate change).”

Clause 1

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

Clause 1, page 1, line 8, leave out “may” and insert “must”

Member's explanatory statement

This amendment requires Ofwat to issue rules about remuneration and governance.

LORD REMNANT

Clause 1, page 1, line 11, at end insert –

- “(1A) While meeting its obligations under subsection (2), the Authority must only exercise the power in subsection (1)(a) to the extent that it considers it necessary to prevent a relevant undertaker from giving remuneration in a way which conflicts with section 2 of the Water Industry Act 1991 (General duties with respect to water industry).
- (1B) When exercising its powers under subsection (1)(a) to make rules, the Authority must have regard to the need for a relevant undertaker to –
- (a) attract the investment required for its capital programme, and
 - (b) attract, motivate and retain persons holding senior roles.”

Member's explanatory statement

This amendment clarifies that Ofwat's powers under this clause cannot be exercised in a way which conflicts with its general duties with respect to the water industry and emphasises that the industry's capital and human resources needs are critically important.

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

Clause 1, page 1, line 16, after “to” insert “prevent all sewage discharges, spills, or leaks, and”

Member's explanatory statement

This amendment would mean a water company could not give performance-related pay to persons holding senior roles if a water company has failed to prevent all sewage discharges, spills or leaks. This also includes legal spill.

BARONESS MCINTOSH OF PICKERING

Clause 1, page 1, line 17, after “standards” insert “, provided the undertaker is satisfied that the failure to meet relevant standards was due to a failing on the part of the person holding the senior role and not another person, including a developer”

BARONESS MCINTOSH OF PICKERING

Clause 1, page 1, line 23, after “standards” insert “, provided the undertaker is satisfied that the failure to meet relevant standards was due to a failing on the part of the person holding the senior role and not another person, including a developer”

EARL RUSSELL

Clause 1, page 2, line 3, at end insert –

- “(d) requiring a relevant undertaker to have arrangements in place for environmental experts to be members of a board, committee or panel of a relevant undertaker.”

Member's explanatory statement

This amendment would require Ofwat to create rules to compel water companies to place environmental experts on their board, committee, or panel.

LORD CROMWELL

Clause 1, page 2, line 3, at end insert –

- “(d) requiring a relevant undertaker to assess and report regularly to the Authority on actual or planned financial structuring of the undertaker, including debt levels, coverage of the associated commercial strategy and any associated risks.”

Member's explanatory statement

The amendment requires that financial engineering becomes a regular focus area for timely reporting in order to assist in regulators' understanding and alert them in good time to risks or distortions.

BARONESS MCINTOSH OF PICKERING

Clause 1, page 2, line 8, at end insert –

- “(ia) meeting relevant standards issued under Schedule 3 of the Flood and Water Management Act 2010 (Sustainable Drainage),”

BARONESS MCINTOSH OF PICKERING

Clause 1, page 2, line 8, at end insert –

- “(ia) meeting relevant standards issued under the Flood and Water Management Act 2010,”

LORD CROMWELL

Clause 1, page 2, line 12, after “appropriate” insert “including in respect of the financial structuring or restructuring of the undertaker’s finances where these enable rewards to investors or employees of the undertaker rather than investing on the behalf of consumers and the sustainability of the undertaking”

Member's explanatory statement

The amendment enables the Authority to set out standards and guardrails with regard to structuring – for example debt levels or transfers to parent companies – and the transparent reporting of these to prevent unsustainable financial practices.

LORD ROBOROUGH
LORD BLENCATHRA

Clause 1, page 2, leave out lines 17 to 19

Member's explanatory statement

This amendment prevents the new rules from overriding existing employment contracts.

LORD ROBOROUGH
LORD BLENCATHRA

Clause 1, page 2, leave out lines 20 to 22

Member's explanatory statement

This amendment prevents the new rules from overriding retroactive deprivation performance-related pay.

LORD CROMWELL

Clause 1, page 2, line 22, at end insert –

- “(3A) The Authority must arrange quarterly meetings attended by its own representatives, civil society organisations, the Environment Agency and water companies –
- (a) The Authority must ensure that –
- (i) the meeting provides regular, recorded feedback from civil society to regulators and water companies on water and water-related environment issues,
 - (ii) the meetings feed into priorities and timelines for specific action,
 - (iii) they review progress against actions agreed at previous meetings,
 - (iv) they circulate the Agenda in advance and Minutes of each meeting, including actions agreed, to be on the Authority’s website within 10 calendar days of each meeting, and
 - (v) they provide up-to-date contact details of a named contact responsible for the meetings.”

Member's explanatory statement

This amendment will oblige regulators and water companies to engage formally with civil society and to record transparently feedback, agreed actions and performance outcomes.

LORD ROBOROUGH
LORD BLENCATHRA

Clause 1, page 2, line 24 after “payment,” insert “share award, restricted stock award, share option award,”

LORD REMNANT

Clause 1, page 2, leave out lines 38 and 39.

Member's explanatory statement

This amendment ensures that the rules about remuneration do not extend to individuals below board level.

LORD ROBOROUGH
LORD BLENCATHRA

★ Clause 1, page 2, line 39 at end insert –

“(5A) Rules made for the purposes of determining standards of fitness and propriety mentioned in subsection (2)(b) –

(a) must include criteria that help the undertaker to assess –

- (i) whether persons have the knowledge, skills and experience to perform the specific role that they are intended to perform;
- (ii) whether, in assessing a candidate for a position within the management body of the undertaker, the management body as a collective possesses adequate knowledge, skills and experience to understand the undertaker’s activities;
- (iii) how relevant and important any matters which suggest a person might not be fit and proper are;
- (iv) whether appointed persons on temporary absence continue to meet the standards of fitness and propriety.

(5B) The criteria in subsection (5A) are to be treated as guidance and may be applied in general terms when the undertaker is determining a person’s fitness and propriety.”

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

Clause 1, page 2, line 40, leave out “may” and insert “must”

Member's explanatory statement

This amendment requires Ofwat, as part of their rules on consumer representation, to require water companies to place consumers on their board, committee, or panel.

LORD REMNANT

Clause 1, page 2, line 42, at end insert –

“(6A) The decision on whether such persons sit on a board, committee or panel is for the relevant undertaker to make.”

Member's explanatory statement

This amendment ensures that it is boards of water companies, rather than Ofwat, who decide which forum (boards, committees or panels) best suits their own requirements.

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

Clause 1, page 2, line 44, leave out “may” and insert “must”

Member's explanatory statement

This amendment requires Ofwat to direct water companies to perform certain actions if it considers them to be contravening rules under new section 35B.

LORD REMNANT

Clause 1, page 4, line 25, leave out “2024” and insert “2025”

Member's explanatory statement

This amendment ensures that the provisions about performance-related pay do not have retroactive effect.

LORD ROBOROUGH
LORD BLENCATHRA

★ Clause 1, page 4, line 25, at end insert –

“(5) The first rules issued under section 35B of the Water Industry Act 1991 (as inserted by subsection (3)) must be published by the Authority within six months of this Act coming into force and provided to the Secretary of State and do not take effect until the Secretary of State has laid regulations made by statutory instrument to bring them into effect.

(6) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

After Clause 1

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

After Clause 1, insert the following new Clause—

“Rules about performance-related pay

- (1) The Water Industry Act 1991 is amended as follows.
- (2) After section 35D (inserted by section 1 of this Act), insert—

“35E Rules about performance-related pay

- (1) The Authority must issue rules prohibiting a relevant undertaker from giving to persons holding senior roles performance-related pay in respect of any financial year in which the undertaker has failed to prevent all sewage discharges, spills, or leaks.
- (2) The rules issued under subsection (1) must include—
 - (a) provision designed to secure that performance-related pay which, if given by a relevant undertaker, would contravene the pay prohibition on the part of the undertaker, is not given by another person;
 - (b) that any provision of an agreement (whether made before or after the issuing of the rules) is void to the extent that it contravenes the pay prohibition;
 - (c) provision for a relevant undertaker to recover any payment made, or other property transferred, in breach of the pay prohibition.
- (3) For the purposes of subsection (1)—
 - (a) “performance-related pay” means any payment, consideration or other benefit (including pension benefit) the giving of which results from the meeting of any targets or performance standards on the part of the relevant undertaker or the person to whom such payment, consideration or benefit is given;
 - (b) a person holds a “senior role” with a relevant undertaker if the person—
 - (i) is a chief executive of the undertaker,
 - (ii) is a director of the undertaker, or
 - (iii) holds such other description of role with the undertaker as may be specified.”

Member's explanatory statement

This amendment creates a new section in the Water Industry Act 1991 to require Ofwat to ban bonuses for water company bosses if they fail to prevent sewage discharges, spills, or leaks.

Clause 2

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

Clause 2, page 4, line 30, after “Each” insert “water and”

Member's explanatory statement

This amendment ensures that both water-only providers and sewerage providers are required to prepare pollution incident reduction plans.

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

Clause 2, page 4, line 31, leave out “and publish” and insert “, publish and implement”

Member's explanatory statement

This amendment would require water companies to implement pollution incident reduction plans. Current drafting only requires them to prepare and publish.

BARONESS PARMINTER

Clause 2, page 4, line 35, at end insert –

“(2A) A water or water and sewerage undertaker must take all reasonable steps to implement the measures described in its pollution incident reduction plan.”

Member's explanatory statement

This amendment would place a duty on water or water and sewage companies to implement the pollution incident reduction plans which this section would require them to publish.

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

Clause 2, page 5, line 12, after “incidents” insert “including pollution incidents discharging into waterways within National Parks and the Broads by 2030”

Member's explanatory statement

This amendment requires undertakers to include plans to eradicate pollution incidents within National Parks.

BARONESS MCINTOSH OF PICKERING

Clause 2, page 5, line 12, after “incidents” insert “including natural flood prevention solutions”

Member's explanatory statement

This amendment, and another in the name of Baroness McIntosh of Pickering, would require consideration of opportunities to retain water through natural solutions to prevent sewage mixing in combined sewers with excess rainfall, causing pollution incidents.

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

- ★ Clause 2, page 5, line 12, after “incidents” insert “including into waterways within National Parks and the Broads by 2030”

Member's explanatory statement

This amendment and another in the name of Baroness Bakewell of Hardington Mandeville requires undertakers to include plans to eradicate pollution incidents within National Parks.

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

Clause 2, page 5, line 19, at end insert –

“(ga) any environmental risks from pollution incidents, and specify steps to mitigate identified risks, and”

Member's explanatory statement

This amendment addresses the gap in the proposed pollution reduction plans by requiring the identification and mitigation of environmental risks.

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

Clause 2, page 5, line 25, leave out “and publication” and insert “, publication, and implementation”

Member's explanatory statement

This amendment is consequential on another amendment in the name of Baroness Bakewell of Hardington Mandeville.

BARONESS JONES OF MOULSECOOMB

Clause 2, page 5, line 29, at end insert –

“(7A) A sewerage undertaker must have regard to opportunities for nature-based solutions to be used to reduce pollution and to deliver other environmental benefits when preparing and publishing a pollution incident reduction plan.”

Member's explanatory statement

This amendment would require consideration of opportunities to use nature-based solutions to address pollution within pollution incident reduction plans.

BARONESS MCINTOSH OF PICKERING

Clause 2, page 5, line 29, at end insert –

“(7A) Before preparing a pollution incident reduction plan, a sewerage undertaker must consult with farmers, local authorities and others to identify natural flood prevention solutions to prevent pollution incidents.”

Member's explanatory statement

This amendment, and another in the name of Baroness McIntosh of Pickering, would require consideration of opportunities to retain water through natural solutions to prevent sewage mixing in combined sewers with excess rainfall, causing pollution incidents.

BARONESS PARMINTER

Clause 2, page 5, line 40, after “94EA(1)” insert “or 94EA(2A)”

Member's explanatory statement

This would ensure that the proposed implementation duty in another amendment in the name of Baroness Parminter is enforceable by the Environment Agency.

BARONESS PARMINTER

Clause 2, page 6, line 2, after “94EA(1)” insert “or 94EA(2A)”

Member's explanatory statement

This would make the failure to implement pollution incident reduction plans, as required by another amendment in the name of Baroness Parminter, an offence alongside the existing offence of not publishing a plan.

LORD ROBOROUGH
LORD BLENCATHRA

Clause 2, page 6, line 6 at end insert –

- “(4) Within 10 days of the end of a sewerage undertaker’s financial year end, the undertaker must report to the Authority its performance against this plan.
- (5) Within a further 20 days the Authority must approve or seek amendment to this performance report.
- (6) The sewerage undertaker’s annual report and accounts must include a summary of its performance against this plan as well as the Authority’s statement on the report.
- (7) The plan, the annual performance report and the Authority’s statement must be published on the sewerage undertaker’s website annually.”

Member's explanatory statement

This amendment requires water companies to report progress against their pollution incident reduction plans annually and include this report in their annual report as well as publishing it on their website.

LORD ROBOROUGH
LORD BLENCATHRA

Clause 2, page 6, line 6 at end insert –

- “(4) The sewerage undertaker must complete a quarterly self-assessment of its performance against this plan and lay it before the Authority within 10 days of the end of each quarter. Once the Authority has accepted the self-assessment, the sewerage undertaker must publish it on its website.”

Member's explanatory statement

This amendment requires water companies to produce a quarterly self-assessment of their progress against their pollution incident reduction plans and publish these reports.

After Clause 2

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

After Clause 2, insert the following new Clause –

“Environmental duties with respect to national parks

After section 4 of the of the Water Industry Act 1991 insert –

“4A Environmental duties with respect to national parks

- (1) Where a relevant undertaker operates, or has any effect, on land within national parks or the Broads, that undertaker must –
- (a) end sewage discharges from that undertaker’s infrastructure entering bodies of water within national parks and the Broads and their catchment water systems;
 - (b) secure and maintain ‘high ecological status’ in the water in these areas by 2028;
 - (c) further the conservation and enhancement of wildlife and natural beauty;
 - (d) secure the achievement and maintenance of at least ‘high ecological status’ in the water in these areas by 2028;
 - (e) improve every storm overflow that discharges within these areas by 2028;
 - (f) reduce the load of total phosphorus discharged into freshwaters within these areas from relevant discharges by 2028 to at least 90% lower than the baseline as defined in Regulation 13(1) of the Waste Water Targets set under the Environment Targets (Water) (England) Regulations 2023.
- (2) A relevant undertaker must be put into special administration, and not be eligible for a further licence, if it fails to –
- (a) demonstrate adequate progress each year;
 - (b) meet the targets in subsection (1).

- (3) Within one year of the day on which the Water (Special Measures) Act 2024 is passed, the Secretary of State must lay a report on the undertakers' implementation of the environmental duties in subsections (1) and (2) before Parliament.
- (4) Following the first report being published under subsection (3), a progress report on implementation must be included in the annual Environment Improvement Plan, issued under section 8 of the Environment Act 2021.
- (5) The Secretary of State may by regulations made by statutory instrument designate specific bodies of water for protection under subsection (1).
- (6) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (7) In this section –
 - “the Broads” has the same meaning as in the Norfolk and Suffolk Broads Act 1988;
 - “land” includes rivers, lakes, streams, estuarine and other waterways;
 - “High Ecological Status” means the classification of water bodies defined in Regulation 6 of The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.”⁹⁰

Member's explanatory statement

This amendment would require water companies to adhere to and deliver stronger environmental objectives and duties within National Parks and the Broads, so as to protect waters across National Parks from sewage. The amendment would give the Secretary of State regulation-making power to extend protections to specific bodies of water, such as Lake Windermere.

LORD ROBOROUGH
LORD BLENCATHRA

After Clause 2, insert the following new Clause –

“Reporting of impact on pollution

- (1) The Secretary of State must publish an assessment of the expected impact of the Act on the overall level of pollution caused by the activities of sewerage undertakers within 3 months of the Act coming into force.
- (2) The Secretary of State must publish an assessment of the actual impact of the Act on the overall level of pollution caused by the activities of sewerage undertakers within 3 years of the Act coming into force.”

Member's explanatory statement

This amendment requires the Government to publish their expectations of the impact of the Act on pollution and the actual impact of the Act 3 years after it comes into force.

Clause 3

EARL RUSSELL

Clause 3, page 6, line 16, at end insert –

“(ba) the volume and concentration of the discharge;”

Member's explanatory statement

This amendment would require water companies to publish the volume and concentration of discharge from an emergency overflow.

LORD CROMWELL

Clause 3, page 6, line 18, at end insert –

“(e) the volume and type of discharge,
(f) an explanation of why the discharge happened,
(g) how the discharge is being mitigated and a recurrence prevented.”

LORD CROMWELL

Clause 3, page 6, line 21, at end insert –

“(2A) Where information in subsection (1)(e) to (g) is not available within an hour of the discharge ending, a timeline for provision of the information on subsection (1)(e) to (g) must be published at the same time as that for subsection (1)(d)”

EARL RUSSELL

Clause 3, page 6, line 26, at end insert –

“(c) be published on one website.”

Member's explanatory statement

This amendment would require water companies to publish data on one website, to increase transparency and ease of access for the public.

LORD CROMWELL

Clause 3, page 6, line 26, insert –

“(3A) The information must be published on the website of the undertaker and simultaneously sent to the Authority, which must then provide for timely posting of discharge information from all undertakers in one readily accessible place on its own website.”

Member's explanatory statement

This amendment would ensure that certain information is more readily accessible, including in a single and coordinated location for the public and civil society to access in as near to real time as practicable.

BARONESS MCINTOSH OF PICKERING

Baroness McIntosh of Pickering gives notice of her intention to oppose the Question that Clause 3 stand part of the Bill.

After Clause 3

BARONESS MCINTOSH OF PICKERING

After Clause 3, insert the following new Clause –

“Report on implementation of Schedule 3 of the Flood and Water Management Act 2010

The Secretary of State must, within six months of the passing of this Act, lay before each House of Parliament a report on the effect of this Act on the implementation of Schedule 3 of the Flood and Water Management Act 2010 (Sustainable Drainage).”

BARONESS BROWNING

After Clause 3, insert the following new Clause –

“Right to communicate with public sewers

In section 106(4) of the Water Industry Act 1991 (right to communicate with public sewers), after paragraph (b) insert –

“(c) the predicted or actual volume of sewerage to be discharged into the public sewer would exceed the capacity of sewerage infrastructure.””

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

After Clause 3, insert the following new Clause –

“Review of environmental permits

- (1) The Environmental Permitting (England and Wales) Regulations 2016 are amended as follows:
- (2) In Regulation 34, remove (1) and insert –
 - “(1A) The regulator must review environmental permits held by a person appointed under the Water Industry Act 1991 as water undertaker or

sewerage undertaker for any area of England and Wales at least once every five years in order to ensure those permits –

- (a) contain conditions to incorporate all relevant legal obligations on such persons with respect to sewage treatment and disposal including but not limited to those specified in the Water Industry Act 1991, and
- (b) contribute to achieving all relevant targets set out under the Environment Act 2021.””

Member's explanatory statement

This amendment would require the Environment Agency to review environment permits applying to water and sewage companies every five years, rather than “periodically” as regulations currently dictate.

Clause 5

BARONESS HAYMAN OF ULLOCK

Clause 5, page 10, line 4, at end insert –

- “(6) But an offence is to be regarded for the purposes of this section as committed by a water supply licensee or sewerage licensee only if it is committed by such a licensee in the course of the activities to which its licence relates.”

Member's explanatory statement

This amendment provides that Clause 5 applies to water supply and sewerage licensees only in relation to their licensed activities.

Clause 6

BARONESS HAYMAN OF ULLOCK

Clause 6, page 11, line 9, at end insert –

- “(11) Section 5(6) also applies for the purposes of this section.”

Member's explanatory statement

This amendment provides that Clause 6 applies to water supply and sewerage licensees only in relation to their licensed activities.

After Clause 6

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

After Clause 6, insert the following new Clause—

“Water Restoration Fund

- (1) No more than 60 days after the day on which this Act is passed, the Secretary of State must by regulations make provision for the establishment, operation and management of a Water Restoration Fund.
- (2) A Water Restoration Fund is a fund—
 - (a) into which any monetary penalties imposed for specified offences must be paid, and
 - (b) out of which payments must be made for expenditure on measures to improve the quality of the freshwater environment in England.
- (3) The Secretary of State must by regulations list the specified offences for the purpose of this section, which must include—
 - (a) any relevant provisions of the Water Resources Act 1991, including—
 - (i) section 24(4) (unlicensed abstraction or related works or contravening abstraction licence);
 - (ii) section 25(2) (unlicensed impounding works or contravening impounding licence);
 - (iii) section 25C(1) (contravening abstraction or impounding enforcement notice);
 - (iv) section 80 (contravening drought order or permit);
 - (v) section 201(3) (contravening water resources information notice);
 - (b) regulations under section 2 of the Pollution Prevention and Control Act 1999 (regulation of polluting activities etc);
 - (c) regulations under section 61 of the Water Act 2014 (regulation of water resources etc).
- (4) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (5) The Secretary of State may by regulations made by statutory instrument add to the list of offences specified in subsection (3).
- (6) The provisions in this section replace any existing provision for the sums received for specified offences, including in section 22A(9) of the Water Industry Act 1991 (penalties).”

Member's explanatory statement

This amendment would require all funds from fines on water companies for environmental offences to be ringfenced for the Water Restoration Fund, for spending on freshwater recovery.

EARL RUSSELL

After Clause 6, insert the following new Clause –

“Power to revoke licences

After section 17R of the Water Industry Act 1991 insert –

“17S Power to revoke licences

The Authority may revoke a water supply and sewerage licence (WSSL) with six months’ notice.””

Member's explanatory statement

This amendment provides Ofwat with the power to remove a water supply and or sewerage licence with six months’ notice.

EARL RUSSELL

After Clause 6, insert the following new Clause –

“Environmental Duties with respect to Chalk Streams

- (1) The Water Industry Act 1991 is amended as follows.
- (2) After section 4, insert –

“4A Environmental Duties with respect to Chalk Streams

- (1) Where a relevant undertaker operates, or has any effect on chalk streams, that undertaker must –
 - (a) secure and maintain “high ecological status” of chalk streams, and
 - (b) clearly mark chalk streams which are of “high ecological status”.
- (2) In this section “high ecological status” relates to the classification of water bodies in The Environment (Water Framework Directive) (England and Wales) Regulations 2017.””

BARONESS BROWNING
BARONESS MCINTOSH OF PICKERING

After Clause 6, insert the following new Clause –

“Duty to comply with water main requisition

In section 41 of the Water Industry Act 1991 (duty to comply with water main requisition), after subsection (4) insert –

- “(4A) The duty to provide water under this section shall not apply to provision for a proposed new development where the water undertaker has notified the developer and the planning authority that –

- (a) it does not have sufficient water resources available, or
- (b) it believes that the provision of water to the new proposed development would be likely to lead to unacceptable damage being caused to a protected site.””

BARONESS MCINTOSH OF PICKERING

After Clause 6, insert the following new Clause –

“Overflows: sanction exception

In section 19 of the Water Industry Act 1991 (exemptions to duty to enforce), after subsection (1)(a) insert –

- “(aza) that the contravention arose from waste materials being deposited into the water system by consumers;””

Member's explanatory statement

This amendment is intended to probe whether provision additional to section 19(1)(aa) of the Water Industry Act 1991 is needed to exempt water companies from sanctions where an emergency overflow results from cooking fat, wet wipes etc.

Clause 7

BARONESS HAYMAN OF ULLOCK

Clause 7, page 11, line 25, leave out from “if” to end of line 28 and insert “ –

- (a) it is held by a water undertaker or sewerage undertaker, or
- (b) it is held by a water supply licensee or sewerage licensee, within the meaning of the Water Industry Act 1991, for the purposes of the activities to which its water supply licence or sewerage licence relates;”

Member's explanatory statement

This amendment provides that Clause 7 applies to water supply and sewerage licensees only in relation to their licensed activities.

BARONESS HAYMAN OF ULLOCK

Clause 7, page 11, line 29, leave out “a reference to such licences includes those” and insert “regulations under this section may apply to water industry licences”

Member's explanatory statement

This amendment is consequential on the Minister's previous amendment.

After Clause 7

BARONESS PARMINTER
 BARONESS BAKEWELL OF HARDINGTON MANDEVILLE
 LORD RANDALL OF UXBRIDGE
 BARONESS JONES OF MOULSECOOMB

After Clause 7, insert the following new Clause—

“Water regulator obligations

Duties of water regulators for clean water

- (1) Section 2 of the Water Industry Act 1991 (General duties with respect to water industry) is amended as follows—
 - (a) omit paragraph (2A)(c);
 - (b) in subsection (2B), omit from “promoting” to “services” and insert “ensuring—
 - (a) clean and wholesome drinking water,
 - (b) bathing waters of excellent quality,
 - (c) lakes, rivers and beaches of high ecological status,
 - (d) the conservation of water resources, and
 - (e) reasonable water bills.”
- (2) In section 3 of the Water Industry Act 1991 (General environmental and recreational duties), in subsection (2), before paragraph (a) insert—
 - “(aa) a requirement to achieve excellent quality of all bathing waters, lakes, rivers and beaches of high ecological status, and elimination of sewage, waste and other pollution so far as reasonably practicable from all waterways;”

Member's explanatory statement

This new clause would change the duties of Ofwat to be compatible with the public interest. It would eliminate the prioritisation of corporate welfare and reform the duties of Ofwat to be for clean water, conservation and reasonable water bills. This would bring English water regulation up to the standards of, and improve upon, the Water (Scotland) Act 1980, section 1.

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

After Clause 7, insert the following new Clause—

“Abolition of the Water Services Regulation Authority

- (1) The Water Industry Act 1991 is amended as follows.

- (2) For section 1A (Water Services Regulation Authority) substitute the following –
- “1A Abolition of the Water Services Regulation Authority**
- (1) The body corporate known as the Water Services Regulation Authority (in this Act referred to as “the Authority”) is abolished.
- (2) All references to the duties and functions of the Authority in this Act or any other enactment are null and void.”
- (3) Omit Schedule 1A (The Water Services Regulation Authority).”

Member's explanatory statement

This amendment abolishes Ofwat.

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

After Clause 7, insert the following new Clause –

“Clean Water Authority

- (1) There shall be a body corporate to be known as the Clean Water Authority for the purpose of carrying out the duties conferred on it by this section.
- (2) The general duties of the Clean Water Authority are as follows –
- (a) to issue guidance to undertakers, and enforce the implementation of that guidance, requiring undertakers to meet excellent standards concerning –
- (i) the provision of clean and wholesome drinking water,
 - (ii) the maintenance of bathing waters of excellent quality,
 - (iii) the maintenance of lakes, rivers and beaches of high ecological status,
 - (iv) the conservation of water resources, and
 - (v) the charging of reasonable water bills;
- (b) to issue rules prohibiting a relevant undertaker from giving to persons holding senior roles performance-related pay in respect of any financial year in which the undertaker has failed to prevent all sewage discharges, spills, or leaks; or failed in any other relevant matter as determined by the Authority;
- (c) to swiftly revoke the licence of water companies that have performed poorly, as defined by the Authority, with particular regard to the standards set out in paragraph (a);
- (d) to require relevant undertakers to have arrangements in place for environmental experts to be members of a board, committee or panel of the undertaker;
- (e) to issue stringent and legally-binding targets concerning sewage discharges affecting bathing waters and highly sensitive nature sites;
- (f) to mandate that undertakers publish publicly-accessible live time data on the recorded volume, duration and number of sewage spills;
- (g) to perform unannounced inspections with regard to the duties under this subsection.

- (3) In this section, “undertaker” means a water undertaker or sewerage undertaker.”

Member's explanatory statement

This amendment establishes the Clean Water Authority and provides it with duties concerning water company governance and performance standards.

EARL RUSSELL

After Clause 7, insert the following new Clause –

“Review of the water industry

- (1) The Secretary of State must consider as part of any review into the water industry the following –
- (a) the functions and performance of the Water Services Regulation Authority, and the case for its abolition;
 - (b) whether a public benefit company could better perform the role of current undertakers.
- (2) The consideration under subsection (1)(a) must analyse the case for replacing the Water Services Regulation Authority with a new corporate body known as the Clean Water Authority, with the following general duties –
- (a) to issue guidance to undertakers, and enforce the implementation of that guidance, requiring undertakers to meet excellent standards concerning –
 - (i) the provision of clean and wholesome drinking water,
 - (ii) the maintenance of bathing waters of excellent quality,
 - (iii) the maintenance of lakes, rivers and beaches of high ecological status,
 - (iv) the conservation of water resources, and
 - (v) the charging of reasonable water bills;
 - (b) to issue rules prohibiting a relevant undertaker from giving to persons holding senior roles performance-related pay in respect of any financial year in which the undertaker has failed to prevent all sewage discharges, spills, or leaks, or failed in any other relevant matter as determined by the Authority;
 - (c) to swiftly revoke the licence of water companies that have performed poorly, as defined by the Authority, with particular regard to the standards set out in paragraph (a);
 - (d) to require relevant undertakers to have arrangements in place for environmental experts to be members of a board, committee or panel of the undertaker;
 - (e) to issue stringent and legally-binding targets concerning sewage discharges affecting bathing waters and highly sensitive nature sites;
 - (f) to mandate that undertakers publish publicly-accessible live time data on the recorded volume, duration and number of sewage spills;
 - (g) to perform unannounced inspections with regard to the duties under this subsection.”

Member's explanatory statement

As part of any future review into the water industry, such as the one the Minister committed to at Second Reading, this amendment would require that any review must consider the abolishment of Ofwat, the potential of public benefit companies, and the establishment of a new regulator called the Clean Water Authority.

BARONESS BROWNING

After Clause 7, insert the following new Clause—

“Water resources management plans: general duty

After section 37C of the Water Industry Act 1991 (water resources management plans: provision of information), insert the following new section—

“37CA Water resources management plans: general duty

- (1) It shall be the duty of every water undertaker to carry out the long-term measures for water resources provision included in any of its water resources management plans.
- (2) A water undertaker shall publish interim reports every six months on all projects and schemes listed in any of its water resources management plans.
- (3) The duties of a water undertaker under this section shall be enforceable under section 18 (orders for securing compliance with certain provisions)—
 - (a) by the Secretary of State, or
 - (b) with the consent of or in accordance with a general authorisation given by the Secretary of State, by the Director.”

BARONESS MCINTOSH OF PICKERING

After Clause 7, insert the following new Clause—

“Review: water re-use and existing regulations

- (1) Within twelve months of the day on which this Act is passed, the Secretary of State must publish a review of the impact of existing regulations related to water wholesomeness on water companies’ ability to encourage water re-use.
- (2) A report on the findings of the review must be laid before Parliament.”

Member's explanatory statement

This amendment reviews the effect of existing regulations on water wholesomeness as it is currently excluded from the responsibility of water companies to encourage water efficiency measures such as use of grey water, reuse of water from a shower and other such water efficiency measures as they are not covered by the definition of wholesome water.

Clause 8

BARONESS HAYMAN OF ULLOCK

Clause 8, page 12, line 32, at end insert –

“but, in relation to water supply licensees and sewerage licensees, includes those functions only so far as performed in respect of the activities to which their licences relate.””

Member's explanatory statement

This amendment provides that Clause 8 applies to water supply and sewerage licensees only in relation to their licensed activities.

After Clause 9BARONESS BOYCOTT
BARONESS PARMINTER
BARONESS BROWNING
LORD WHITTY

After Clause 9, insert the following new Clause –

“Water and sewerage undertakers: the Environmental Information Regulations 2004

- (1) A water or sewerage undertaker appointed under the Water Industry Act 1991 is a public authority for the purposes of the Environmental Information Regulations 2004.
- (2) After regulation 4 (dissemination of environmental information), paragraph (4)(b) of the Environmental Information Regulations 2004 insert –
 - “(c) all effluent or wastewater treatment works monitoring data held by water and sewerage undertakers appointed under the Water Industry Act 1991 including operational monitoring data in addition to any data required under permits issued under the Environmental Permitting (England and Wales) Regulations 2016.”
- (3) Section 50 of the Freedom of Information Act 2000 as read with regulation 18 of the Environmental Information Regulations 2004 is to be read as if a request for information made by the complainant to a public authority includes a complaint concerning any failure proactively to publish information under regulation 4 of the Environmental Information Regulations 2004.”

Member's explanatory statement

This amendment would remove some of the difficulties that the public experience in getting access to real-time and operational data held by the water companies pursuant to their roles as sewerage undertakers under the Water Industry Act 1991 and would enable any failure to proactively publish such data to be referred to the Information Commissioner.

Clause 10

LORD REMNANT

Clause 10, page 13, leave out lines 38 to 40.

Member's explanatory statement

This amendment ensures that compliant companies in the sector are not required to render financial assistance to recover losses.

After Clause 12

BARONESS BROWNING

After Clause 12, insert the following new Clause –

“Form and contents of licences

- (1) The Water Resources Act 1991 is amended as follows.
- (2) In section 46 (form and contents of licences), after subsection (7) insert –
 - “(8) All licences granted to water undertakers for the abstraction of water from surface or groundwater sources must include a condition requiring the continuous measurement or monitoring of volumes abstracted.
 - (9) The information required under subsection (8) must be made publicly available at all times and should be published online in real time.
 - (10) For those licences which precede the coming into force of subsections (8) and (9), the measures in those subsections will be required when the licence comes under review or by 31 December 2027, whichever is the earlier.”
- (3) In section 197 (provision of information about water flow etc.), after subsection (2) insert –
 - “(2A) It shall be the duty of every water undertaker to publish in real time the flow and abstraction volume data for every abstraction licence that relates to abstractions from rivers.””

BARONESS WILLIS OF SUMMERTOWN
 BARONESS PARMINTER
 BARONESS YOUNG OF OLD SCONE
 LORD RANDALL OF UXBRIDGE

After Clause 12, insert the following new Clause –

“Climate change and nature duty

After section 2(2A) of the Water Industry Act 1991 (general duties with respect to the water industry) insert –

- “(2AA) In exercising and performing the powers and duties mentioned in subsection (1) above, the Secretary of State or, as the case may be, the Authority must take all reasonable steps to contribute to –
- (a) the achievement of biodiversity targets set under sections 1 to 3 of the Environment Act 2021,
 - (b) the achievement of targets set under Part 1 of the Climate Change Act 2008 (carbon target and budgeting), and
 - (c) adapting to current or predicted impacts of climate change identified in the most recent report under section 56 of the Climate Change Act 2008 (report on impact of climate change).”

Member's explanatory statement

This amendment would give Ofwat a new climate change and nature duty requiring it to take all reasonable steps to contribute to the achievement of the Climate Change Act 2008 and Environment Act 2021 targets in exercising its functions regulating water companies.

LORD ROBOROUGH
 LORD BLENCATHRA

After Clause 12, insert the following new Clause –

“Rules about borrowing

After section 154B of the Water Industry Act 1991 (financial assistance for major works), insert –

“CHAPTER III

RULES ABOUT BORROWING FOR UNDERTAKERS

154C Restriction on borrowing

- (1) Where a relevant undertaker has total borrowing of 60 per cent of their regulated assets or more, the relevant undertaker may not make a payment of dividends, capital, assets, or interest to shareholders or controlling entities.

- (2) Borrowing under subsection (1) shall be calculated from the audited company accounts of the relevant undertaker annually and returns approved by the regulator based on that.
- (3) A relevant undertaker may not take borrowing above 60 per cent of their regulated assets by any shareholder returns.
- (4) This section voids any relevant guarantees given by a relevant undertaker to any other company.””

Water (Special Measures) Bill [HL]

RUNNING LIST OF ALL AMENDMENTS IN COMMITTEE OF THE WHOLE HOUSE

Tabled up to and including

23 October 2024

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